

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 189 of 1997

in

SPECIAL CIVIL APPLICATION No 2643 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

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2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

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LAXMAN NATHUBHAI

Versus

STATE OF GUJARAT

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Appearance:

MRS DT SHAH for Petitioner

MR. RC KODEKAR, Advocate for Respondent

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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE S.D.PANDIT

Date of decision: 11/07/97

ORAL JUDGEMENT

Admitted. Mr.R.C. Kodekar appears on behalf of the respondent and waives service of notice of admission. In the facts and circumstances of the case, this matter is taken up for final hearing today.

2. This appeal is filed against the judgment and order passed by the learned single Judge in Special Civil Application No.1643 of 1985 on September 30, 1996 and October 1/3, 1996. By the impugned judgment and order, the learned single Judge partly allowed the petition filed by the appellant - petitioner workman and passed an order, operative part of which reads as under:

"In the result, the petition is allowed with costs which is quantified at Rs.2,500/-. The impugned order of termination dated 27.12.1984 at Annexure-A is quashed and set aside and the respondents are directed to reinstate the petitioner within a period of four weeks from the date of writ of this court with 25% back wages and with all consequential benefits of continuing service.

A parting thought may be necessary. Recipient of back wages, large sum of money or large lumpsum compensation are quite inexperienced in the handling of such large sum of money or funds. They may dissipate such funds or likely to face a prey of confidence or may even invest in reckless, imprudent enterprise or financial institution or organisation.

It is therefore incumbent upon a court under benevolent and beneficial law proceedings to ensure that the amount awarded in such cases is not being frittered away. If large sum of arrears or lumpsum compensation is squandered away, which will in all probabilities be against the socioeconomic objective and the purpose of the provision of benign labour legislation intended to be achieved. Therefore, looking to the poor class of workmen, their minor children or widow, as the case may be, who would not have strict fiscal discipline and to scotch the complaints of malapplication and at times misappropriate of such funds, following guidelines shall be beneficial and in the best interest of the subject and in consonance with the object of relevant labour legislation.

Out of the above arrears of back wages, 75% of amount shall be deposited or invested in any Nationalised Bank or UTI Schemes or any other high rate of interest yielding scheme of the Government or Government owned and managed Corporations initially for a period of five years. The interest which shall accrue due therefrom shall be periodically paid to the workman. However, the workman shall not be entitled to create any charge or encumbrances or take any loan in part of while without previous permission of concerned Labour Court. It is also clarified that concerned Labour Court will be at liberty to permit withdrawal by the workman or encash prematurely deposit upon an application in that behalf made by the workman and if Labour Court is satisfied that such withdrawal is necessary for urgent emergent and unforeseen circumstances."

3. Mrs.Shah, learned Counsel for the appellant, did not press the prayer of full back wages. She, however, contended that the learned single Judge ought to have directed the respondent to pay the entire amount with costs to the appellant.

4. It was submitted that when the petition was partly allowed and direction was issued to pay 25% of the back wages, the learned single Judge ought not to have passed an order of investment and/or deposit in UTI Scheme or any other high rate interest yielding scheme of Government or Government owned or managed Corporation. The learned Counsel stated that the amount of back wages of 25% would come to Rs.10,000/- approximately. In light of the statement made by the learned counsel which is not controverted by the learned advocate for the respondent, we are of the view that the order passed by the learned single Judge requires to be modified. It is directed that the respondent authorities will pay the entire amount to which the appellant is entitled by an account payee cheque. Such amount shall be paid within eight weeks from receipt of the writ. Appeal is partly allowed. In the facts and circumstances of the case, no order as to costs.

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